

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
October 24, 2005

D045521 People v. Briseno

The order extending Briseno's commitment is affirmed. Huffman, Acting P.J.; We Concur: Haller, J., O'Rourke, J.

D047131 Nina R. v. Superior Court of San Diego County/San Diego County Health and Human Services Agency

No timely petition for writ relief has been filed. The notice of intent is deemed to be abandoned. The case is dismissed.

D047190 In re Briand Williams on Habeas Corpus

The petition is denied.

D047259 In re Nash Korkis on Habeas Corpus

The petition is denied.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
October 25, 2005

D045634 People v. Stanley

The order denying appellant's motion to vacate the order requiring he repay the Drug Enforcement Agency its expenses in cleaning his apartment is affirmed. Benke, J.; We Concur: McConnell, P.J., O'Rourke, J.

D047272 Yates v. Office of Administrative Hearings

The appellant having failed to timely pay the filing fee, the appeal is dismissed.

D045973 In re J. M. et al., Juveniles

The judgment is affirmed. Huffman, Acting P.J.; We Concur: Aaron, J., Irion, J.

D045310 People v. Demay

The \$200 parole revocation fine imposed pursuant to section 1202.45 is stricken. The \$400 restitution fine imposed pursuant to section 1202.4, subdivision (b) is reduced to \$200. The court minutes, probation, and judgment are ordered to be modified to reflect these corrections. As modified, the judgment is affirmed. McConnell, P.J.; We Concur: Benke, J., Haller, J.

D046485 All Covered, Inc. v. Moore

The orders are affirmed. Costs are awarded to plaintiff and respondent. Huffman, Acting P.J.; We Concur: Aaron, J., Irion, J.

D045840 People v. Martinez

The judgment is affirmed. Huffman, J.; We Concur: Benke, Acting P.J., Nares, J.

D042720 People v. Jordan

The judgment is affirmed. McDonald, J.; We Concur: Benke, Acting P.J., O'Rourke, J.

D045912 In re James D., a Juvenile

The appeal from the order denying Eric's section 388 petition is dismissed. The paternity judgment in Daniel's favor is reversed. The other orders are affirmed. McConnell, P.J.; We Concur: Nares, J., O'Rourke, J.

D045001 Appel v. Berg

The judgment and postjudgment order awarding attorney fees are affirmed. Berg is entitled to costs on appeal. The stay this court issued on January 21, 2005, is lifted. McConnell, P.J.; We Concur: Benke, J., Haller, J.

D044751 Stearns v. Balistrieri

The order of the trial court is affirmed. Irion, J.; We Concur: Nares, Acting P.J., Aaron, J.

D045811 Radford v. Yamamoto et al.

The order denying appellants' petition to compel arbitration is affirmed. Respondent is awarded her costs on appeal. Huffman, J.; We Concur: Benke, Acting P.J., Irion, J.

D045692 People v. Kelly

The judgment is affirmed. Huffman, Acting P.J.; We Concur: Nares, J., Irion, J.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
October 25, 2005 (Continued)

D047247 Yates v. City of San Diego Board of Education et al.
The appeal is dismissed.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
October 26, 2005

D046724 In re Briana V., a Juvenile

The appeal is dismissed. Aaron, J.; We Concur: O'Rourke, Acting P.J., Irion, J.

D045800 Conservatorship of the Person of Pamela J.

The order appealed from is reversed. CERTIFIED FOR PUBLICATION. Huffman, Acting P.J.;
We Concur: Nares, J., Irion, J.

D044992 Alemu v. Venn-Watson et al.

The petition is denied.

**D046780 S.K. v. The Superior Court of California v. San Diego County Health and Human
Services Agency**

Let a writ of mandate issue directing the juvenile court to (1) vacate the orders made at the July 1, 2005 hearing terminating reunification services and setting a section 366.26 hearing and (2) hold a new hearing to determine whether, taking into account the current circumstances at the time of the new hearing, returning C.K. to the father's custody poses a risk of detriment to C.K. This opinion is final immediately. (Cal. Rules of Court, rule 21(b)(3)). Benke, J.; We Concur: McConnell, P.J., Haller, J.

D047374 Littlejohn v. Superior Court of San Diego County/Shore et al.

Petitioner should have request relief from the appellate division of superior court, not this court. The petition is denied.

**D044967 Robert L. Rentto Professional Law Corporation et al. v. Four Seasons No. 1500,
LTD**

Judgment affirmed. Appellant to pay respondents' costs on appeal. Haller, J.; We Concur: Benke, Acting P.J., O'Rourke, J.

D042717 Davila et al. v. Nickell et al./Rodriguez

D044257 Davila et al. v. Nickell et al./Rodriguez

(Consolidated cases) The judgment as to the Davila children is reversed, and the matter remanded for a limited retrial on the issue whether these plaintiffs had standing to bring a wrongful death claim under Code of Civil Procedure section 377.60, subdivision (c). If the Davila children do not prove standing, the judgment in their favor should be reversed, and judgment entered in favor of defendants.

If the Davila children do prove standing, then the court shall reenter the judgment with respect to the compensatory verdicts. The court shall also strike the punitive damage verdicts in favor of the Davila children.

The court should also recalculate the prejudgment interest awards and attorney fee awards, if necessary, depending on the outcome of the retrial.

The sanctions and attorney fees awarded in Rodriguez's favor are stricken. In all other respects, the judgment is affirmed. The parties to bear their own costs. Haller, Acting P.J.;

We Concur: McDonald, J., O'Rourke, J.

D044255 Le v. Sam

The petition for rehearing is denied.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
October 26, 2005 (Continued)

D046420 In re the Marriage of Elizabeth Brambila and Jose Luis Hernandez

Upon filing a written abandonment of appeal, the appeal is dismissed and the remittitur is ordered to issue immediately (Cal. Rules of Court, rule 20(c)(2)).

D046894 In re Amir F., a Juvenile

Upon written request filed by appellant, the appeal is dismissed and the remittitur is ordered to issue immediately (Cal. Rules of Court, rule 20(c)(2)).

D044802 Hudlow Company Inc., et al. v. Ortega et al.

The petition for rehearing is denied.

D046585 Reich v. Tornambe

The matter of the viability of plaintiff Jean Reich's appeal from the summary judgment entered on March 18, 2005 has been considered by Justices McConnell, Huffman, and Haller. The sole issue raised in plaintiff's opening brief is whether the trial judge was disqualified when he ruled on defendant's summary judgment motion. The trial court's determination of the question of disqualification is not an appealable order and may be reviewed only by a writ of mandate. (Code Civ. Proc., 170.3, subd. (d)). Plaintiff unsuccessfully sought writ review of the trial court's disqualification determination in Case No. D045629. Accordingly, plaintiff's appeal is dismissed.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
October 27, 2005

D047189 In re Stephen Einer Petersen on Habeas Corpus

The petition is denied.

D046942 Joseph P. v. Superior Court of San Diego County/San Diego County Health and Human Services Agency

The attorney for petitioner Joseph P. has notified the court on behalf of the petitioner that a Petition for Writ of Mandate under rule 38.1 will not be filed as there are no viable issues for writ review. The case is dismissed.

D047135 Lydia S. et al., v. Superior Court of San Diego County/San Diego County Health and Human Services Agency

The attorney for petitioner Lydia S. has notified the court on behalf of the petitioner that a Petition for Writ of Mandate under rule 38.1 will not be filed as there are no viable issues for writ review. The case as to Lydia S. is dismissed.

D046954 In re Miller on Habeas Corpus

The petition is denied.

D046048 In re Angelina G. et al., Juveniles

Judgment affirmed. McConnell, P.J.; We Concur: Nares, J., McDonald, J.

D044103 People v. Rivera

The petition for rehearing is denied. Presiding Justice McConnell and Associate Justice O'Rourke concur in the denial; Associate Justice Nares would grant.

D046414 In re Angelica M. et al., Juveniles

The judgments are affirmed. McConnell, P.J.; We Concur: Nares, J., McDonald, J.

D046070 In re T.J., a Juvenile

D046719 In re Edward C. on habeas corpus

The petition for writ of habeas corpus, *In re Edward C.*, D046719, is consolidated with the appeal *In re T.J.*, D046070.

D047074 Pointe San Diego Residential Community et al. v. Procopio, Cory, Hargreaves & Savitch et al.

The petition for writ of supersedeas, request for stay, response and motion to augment have been read and considered by Justices Huffman, Haller and O'Rourke. The motion to augment the record on appeal is granted. The documents attached to the motion as exhibits 25 through 29 are deemed a part of the record. The petition is denied.

D046070 In re T. J., a Juvenile

D046719 In re Edward C. on habeas corpus

(Consolidated cases) The judgment is affirmed. The petition for a writ of habeas corpus is denied. Benke, J.; We Concur: McConnell, P.J., O'Rourke, J.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
October 27, 2005 (Continued)

D046947 In re the Marriage of Whelan

Pursuant to California Rules of Court, rule 8, the cross-appeal filed August 18, 2005 by Lorraine Whelan, is dismissed for failure of appellant to timely deposit costs for preparing the record on appeal.

D045154 Buell-Wilson et al. v. Ford Motor Company et al.

D045579 Buell-Wilson et al. v. Ford Motor Company et al.

Upon written stipulation filed by the parties to the appeal, the cross-appeal is DISMISSED and the remittitur as to the cross-appeal is ordered to issue immediately (Cal. Rules of Court, rule 20(c)(2)). Each party to bear own costs on the cross-appeal. This court's briefing sequence order of November 19, 2004, is hereby vacated. Pursuant to the parties January 25, 2005 stipulation extending time to file briefs, appellants' reply brief is due 50 days from the filing of respondents' brief. Appellant's reply brief is due on or before December 15, 2005

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
October 28, 2005

D042623 People v. Vasquez

The judgment is affirmed. O'Rourke, J.; We Concur: Huffman, Acting P.J., Irion, J.

D046445 In re Marcus Bryant on Habeas Corpus

Let a writ of habeas corpus issue directing the superior court to vacate the sentence imposed on February 8, 2005, in case SCS189568 and to complete the plea bargain by complying with the requirements of section 3051. This opinion is made final immediately as to this court. (Cal. Rules of Court, rule 24(b)(3)). McConnell, P.J.; We Concur: Huffman, J., Haller, J.

D046554 In re Edward G., a Juvenile

The appeal is dismissed. Nares, J.; We Concur: Benke, Acting P.J., Haller, J.

D044997 Chavez v. Lopez, IV

The judgment is affirmed. O'Rourke, J.; We Concur: McConnell, P.J., Benke, J.

D045687 City of San Diego et al. v. Kaiser

The order denying return of the firearms and ordering their destruction is reversed. The superior court is directed to enter a new order compelling the City of San Diego to make the firearms available for return. The parties shall bear their own costs on appeal. O'Rourke, J.; We Concur: McConnell, P.J., Haller, J.

D043657 People v. Contreras

The judgment is affirmed. O'Rourke, J.; We Concur: Haller, Acting P.J., McDonald, J.

D046715 Gilmann v. Douzajian et al.

Appellant has failed to file a brief after notice given pursuant to California Rules of Court, rule 17(a). The appeal is dismissed.

D047408 Elansari v. Superior Court of San Diego County/McWethy, Jr.

The petition is denied.